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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 10/031,064 | 04/12/2002 | Jeremy Dennis Bartlett | Q68069 | 6007 |

7590 02/06/2007
Sughrue Mion
2100 Pennsylvania Avenue NW
Washington, DC 20037-3202

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| EXAMINER |
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THALER, MICHAEL H

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| ART UNIT | PAPER NUMBER |
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3731

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 02/06/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/031,064

Applicant(s)

BARTLETT, JEREMY DENNIS

Examiner

Michael Thaler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-8, 12, 14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-8, 12, 14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Claims 14 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The "join", according to applicant's disclosure, is bead 8 (page 11, lines 26 and 29) and does not include the filaments 3 that are substantially parallel to each other, noting that claims 5-8 and 12 are also consistent with this interpretation. Thus, according to the disclosure, the members that bend are the filaments rather than the joins. Thus, describing the joins as bending (claim 14, lines 1-2 and claim 15, lines 1-2) is confusing and inaccurate.

Claims 5-8 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Taylor et al. (6,083,257). Taylor et al. disclose first and second sets of mutually counter rotating metallic filaments 2, 3 in which some or all of the filament ends are fixed together in pairs (col. 11, lines 3-6) by placing the filaments adjacent to and substantially parallel to one another (figures 4 and 5) and further comprising a join at each end, wherein some but not all of the filament ends are welded (col. 2, lines 35-37 and 54-60 and col. 13, lines 50-63), the joins extending outward radially from a main body of the stent (when the ends of the stent flare radially outwardly as described in col. 5, lines 31-50, particularly lines 31-33 and

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col. 11, lines 10-12). As to claims 6, 7 and 12, note col. 7, lines 5-8. As to claim 8, the proximal surface of the joins provide a shoulder (col. 3, lines 13).

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor et al. (6,083,257). Taylor et al. fail to disclose the angle of the members increasing as the filaments extend toward the join. However, it is old and well known to form flaring ends on stents by increasing the angle of the filaments as they extend toward the ends in order to obtain the advantage of preventing the migration of the stent in the body lumen. It would have been obvious to so shape the flared ends of the Taylor et al. stent so that it too has this advantage.

Applicant's arguments filed Nov. 21, 2006 have been fully considered but they are not persuasive for the reasons set forth above.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened

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statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571) 272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

mht



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731